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TRANSMITTAL FORM

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Application Number	10/659,782
Filing Date	September 11, 2003
First Named Inventor	Liat Mintz
Group Art Unit	1636
Examiner Name	Jennifer Ann Dunston

Total Number of Pages in This Submission

Attorney Docket Number 28238

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Response (to Restriction mailed 11/30/04) <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <ul style="list-style-type: none">• Certificate of Mailing• Receipt Card
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Jeffrey Safran
Signature	
Date	December 23, 2004

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MINTZ

CASE NO: 28238

SERIAL NO: 10/659,782

GROUP ART UNIT: 1636

FILED: SEPTEMBER 11, 2003

EXAMINER: J. DUNSTON

FOR: COMPOSITIONS, REAGENTS AND
KITS FOR AND METHODS OF
DIAGNOSING, MONITORING AND
TREATING OBESITY AND/OR DIABETES

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

By Office Action dated November 30, 2004, the above-referenced application has been made subject to a restriction requirement. The Examiner has taken the position that claims 25-30 and 35-37 (Invention I) are drawn to an isolated nucleic acid sequence, an expression vector comprising the isolated nucleic acid sequence, a host cell transfected with the expression vector, a primer, and a probe, classified in class 536, subclass 23.1. Claims 31-34 (Invention II) are said to be drawn to an amino acid sequence, classified in class 530, subclass 350. Claims 38-43 and 46 (Invention III) are said to be drawn to a method for detecting or determining the level of a variant nucleic acid sequence in a biological sample, classified in class 435, subclass 6. Claim 44 (Invention IV) is said to be drawn to a method for identification of compounds capable of affecting the binding affinity of a protein to a receptor, classified in class 435, subclass 4. Claim 45 (Invention V) is said to be drawn to a method for determining the ratio between the level of an obesity and/or diabetes

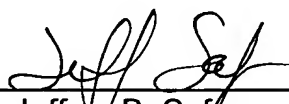
related protein variant in a first biological sample and a variant produced by alternative splicing in a second biological sample, classified in class 435, subclass 4.

The Examiner also has restricted each nucleic acid or amino acid sequence within claims 25, 32, 37-39, 44, and 46. Specifically, the Examiner argues that "[a]lthough some of the nucleic acid sequences are variants of the same known transcript, each variant constitutes unique chemical structure with a different biological function in that they code for different proteins. Further, the amino acid sequences of the translated splice variants are each chemically distinct structures with potentially different functions." Office Action at 4-5.

Applicant provisionally elects to prosecute the claims of Group II, that is, claims 31-34, specifically those claims directed to SEQ ID NO:32 (the human ghrelin variant 2 amino acid sequence), with traverse. Applicant reserves the right to traverse on the grounds that the Examiner has unreasonably separated the sequences in the Markush groups found in claims 25, 32, 37-39, 44, and 46. Because the traverse involves unelected sequences, no argument will be made at this time.

In order to expedite disposition of this case, the Examiner is invited to contact Applicant's representative at the telephone and facsimile numbers shown below. Should there be a fee due which is not accounted for, please charge such fee to Deposit Account No. 501447 (Potter Anderson & Corroon LLP).

Respectfully Submitted,

By: 
Jeffrey B. Safran
Attorney for Applicants
Reg. No.: 54,689
Telephone: (302) 984-6132
Facsimile: (302) 658-1192

Dated: 12/23/04



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Application No: 10/659,782

Filing Date: September 11, 2003

Title: Compositions, Reagents And Kits For And Methods Of Diagnosing, Monitoring And Treating Obesity And/Or Diabetes

Attorney Docket: 28238

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